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Hendricus Franciscus van der Eerden

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EXAMINER

LUK, EMMANUEL S

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **DETAILED ACTION**

1. Applicant's arguments filed 11/20/09 have been fully considered but they are not persuasive. The arguments set forth by the applicants are directed primarily to claim 88 in response to the rejection of Fay '837. The arguments are that the prior art device is not focused upon dough products, but rather on meat products, and that the hopper and feed roll for filling the die cavities does not maintain the cavities in a closed condition.

It is noted however that structural limitations of the claimed invention, the prior art reference, Fay, does teach what is structurally claimed and the use of apparatus for shaping dough or meat is noted but is an intended use limitation of the structure when there is nothing to further distinguish between the structures. In regards to the means for closing a mold cavity and keeping it in a closed condition, the Fay reference includes the use of a feed roll that would close and maintain the cavity in a closed condition until the later point when it is opened for release, see Figures of Fay. The structure of Fay has an equivalent function as the claimed means plus function, and there is no structural limitation that would specify how long the closed condition needs to be for the cavity prior for the release of the product. In regards to claims 49, 94, and 95, this will be objected as being dependent upon rejected claims (claim 88). The arguments presented by the applicants concerning the elements in claims 94 and 95 are persuasive, however, claim 88 remains rejected. In regards to claim 49, it is similar to indicated allowable claim 121. In regards to claims 51 and 92, these remain

Art Unit: 1791

rejected since changing the dependency of the claims to the claim 88 does not render the claims allowable over the prior art of record for claim 88.

It is appreciated that issues with claim 69 has been resolved concerning the status of the claim. It is also appreciated that the issues of claims 98, 99, and 24 have also been resolved, thus the rejections and objections of the claims under 35 U.S.C. § 112 are withdrawn.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL S. LUK whose telephone number is (571)272-1134. The examiner can normally be reached on Monday-Fridays from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogendra N Gupta/  
Supervisory Patent Examiner, Art Unit 1791

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